

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re: Mathew S. Hutchinson

Debtor.

Case No. 18-55664
Chapter 13
Hon. Mark A. Randon

**MOTION TO DETERMINE VALIDITY OF PAYMENT CHANGE OF EAST BAY
VILLAGE CONDOMINIUM ASSOCIATION (DOCKET NO. 34)**

Debtor, Mathew S. Hutchinson, through counsel, Goldstein Bershad & Fried PC, files this Motion to Determine Validity of Payment Change of East Bay Village Condominium Association ("Creditor") pursuant to Federal Rules of Bankruptcy Procedure 3002.1(b)(2) as follows:

1. On April 4, 2019, Creditor filed a Notice of Postpetition Mortgage Fees, Expenses and Charges ("Notice") (docket no. 34) relating to payment of attorney fees in the amount of \$864.41 relating to work done on behalf of the condominium association for real property located at 486 Village Drive, Walled Lake, MI 48390.
2. The Settlement Statement Report ("Report") attached to the Notice includes itemized time entries from December 20, 2018 through March 19, 2019 with fees totaling \$853.00 and expenses of \$11.41.
3. Debtor filed for relief pursuant to Chapter 13 on November 20, 2018. The Notice requests reimbursement of attorney fees, *inter alia*, for "Preparation of Lien Documents" ("Lien"). The Lien was executed on March 1, 2019 and recorded with the Oakland County Register of Deeds on March 5, 2019. See Proof of Claim No. 15. East Bay had notice of the bankruptcy filing as it was properly listed on Debtor's Schedule D and on the mailing matrix and was also properly treated and listed in Debtor's Chapter 13 Plan. Accordingly, the Lien was prepared and recorded post-petition in violation of the automatic

stay and is not compensable by Creditor.

4. In addition, the time entries for December 20, 2018 (2 separate entries), January 25, 2019 and March 18, 2019¹ appear to be related to post-petition attempts to collect on a debt. Several of the billing entries relate to collection action unrelated to the bankruptcy filing. These entries are also not compensable by Creditor.

5. Debtor has now incurred additional expense due to his own attorney fees in having to resolve this matter. Debtor contacted Creditor's attorney via email on April 19, 2019 and April 25, 2019. To date, no corrective action has been taken.

6. Accordingly, Debtors request that the Notice be withdrawn immediately and that Debtors be reimbursed for all relevant attorney fees and costs.

WHEREFORE, Debtor prays that this Honorable Court deny the relief requested pursuant to Federal Rules of Bankruptcy Procedure 3002.1(b)(2).

Respectfully submitted,

GOLDSTEIN BERSHAD & FRIED PC

By: /s/ Aaron J. Scheinfield
Aaron J. Scheinfield P67495
Attorney for Debtor
4000 Town Center, Suite 1200
Southfield, MI 48075
(248) 355-5300
email aaron@bk-lawyer.net

Dated: May 10, 2019

¹ In the Report, Debtor notes that there is no "Duration" listed for the entries associated with Lawyer having the initials "HC." As such, it is impossible to ascertain the reasonableness of the attorney fees requested.

UNITED STATES BANKRUPTCY COURT
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Case No. 18-55664

Chapter 13

Hon. Mark A. Randon

**ORDER DETERMINING VALIDITY OF PAYMENT CHANGE OF EAST BAY VILLAGE
CONDOMINIUM ASSOCIATION (DOCKET NO. 34)**

This matter having come before the Court upon the Motion to Determine Validity of Payment Change of East Bay Village Condominium Association; no objections to the Motion have been filed and the Court being otherwise duly advised in the premises:

IT IS HEREBY ORDERED that the relief requested within the Notice of Postpetition Mortgage Fees, Expenses and Charges ("Notice") (docket no. 34) shall be denied with prejudice in its entirety and shall be deemed withdrawn.

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re: Mathew S. Hutchinson

Debtor.

Case No. 18-55664

Chapter 13

Hon. Mark A. Randon

**NOTICE OF MOTION TO DETERMINE VALIDITY OF PAYMENT CHANGE OF EAST BAY
VILLAGE CONDOMINIUM ASSOCIATION (DOCKET NO. 34)**

Matthew S. Hutchinson has filed papers with the Court to determine the validity of payment change.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the motion, or if you want the Court to consider your views on the motion, within fourteen (14) days from the date of service of the motion, you or your attorney must:

1. File with the Court a written response or an answer, explaining your position at:²

United States Bankruptcy Court
211 West Fort Street, 17th Floor
Detroit, Michigan 48226

If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it within the above-referenced time period.

2. Mail a copy to:

Office of the Chapter 13 Standing Trustee
Krispen Carroll, Trustee
719 Griswold, Suite 1100
Detroit, MI 48226
Phone: (313) 962-5035

AARON J. SCHEINFELD
Goldstein Bershad & Fried PC
Attorneys for Debtor
4000 Town Center, Suite 1200
Southfield, MI 48075
Phone: (248) 355-5300

3. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

EXHIBIT 2

²Response or answer must comply with F.R.Civ.P.8(b)(c) and (e)

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

GOLDSTEIN BERSHAD & FRIED PC

Dated: May 10, 2019

/s/ Aaron J. Scheinfield

AARON J. SCHEINFELD P67495

Attorneys for Debtor

4000 Town Center, Suite 1200

Southfield, Michigan 48075

(248) 355-5300

(248) 355-4644 (Fax)

email aaron@bk-lawyer.net

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In Re: Mathew S. Hutchinson,

Debtor.

/

Case No. 18-55664-mar

Chapter 13

Hon: Mark A. Randon

CERTIFICATE OF SERVICE

The undersigned, being first duly sworn, deposes and says that on May 10, 2019 the following document was electronically filed and served upon the following ECF Participants:

Documents:	Motion to Determine Validity of Paymetn Change of East Bay Village Condominium Association (Docket No. 24), proposed Order, Notice of Motion and this Certificate of Service
ECF Participants:	All parties listed by the Court for service via electronic mailing

And I hereby certify that on May 10, 2009 I mailed the documents by United States Postal Service to the following non-ECF participants:

NONE

/s/ Jennifer L. Gamalski

Jennifer L. Gamalski

4000 Town Center, Suite 1200

Southfield, MI 48075

Phone: (248) 355-5300

Fax: (248) 355-4644

Aaron J. Scheinfeld P67594

email aaron@bk-lawyer.net

Dated: May 10, 2019